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REPORTER'S RECORD

VOLUME 5 OF 12 VOLUMES

TRIAL COURT CAUSE NO. 114-0648-13

FILED IN  
12th COURT OF APPEALS  
TYLER, TEXAS  
6/24/2014 4:26:00 PM  
CATHY S. LUSK  
Clerk

STATE OF TEXAS

) IN THE DISTRICT COURT

)

)

)

VS.

) SMITH COUNTY, TEXAS

)

)

)

JOSEPH PIERCE

) 114TH JUDICIAL DISTRICT

)

)

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PRETRIAL & HEARING ON MOTION TO SUPPRESS

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On the 21st day of October, 2013, the following proceedings came on to be heard in the above-styled and -numbered cause before the HONORABLE CHRISTI J. KENNEDY, Judge Presiding, held in Tyler, Smith County, Texas:

Proceedings reported by Computerized Machine Stenography, Reporter's Record produced by Computer-Assisted Transcription.

Court Reporter: CASSIE CONDREY.  
Texas CSR #9035  
Official Court Reporter  
114th Judicial District Court  
212 Smith County Courthouse  
Tyler, Texas 75702  
(903) 975-4331

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1 P R O C E E D I N G S

2 THE COURT: Cause number 114-0648-13.

3 State of Texas versus Joseph Pierce. Counsel for the  
4 State, counsel for the defendant and the defendant are  
5 present in the courtroom.

6 State's ready?

7 MR. PUTMAN: We're ready, Your Honor.

8 THE COURT: Defense is ready?

9 MR. ELLIS: Ready, Your Honor.

10 THE COURT: All right. Mr. Ellis?

11 MR. ELLIS: Yes.

12 THE COURT: Mr. Pierce, would you come up  
13 here with Mr. Ellis, please?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Mr. Ellis, I know you got into  
16 this case a little later. Have you received the State's  
17 felony discovery compliance form?

18 MR. ELLIS: Yes, Judge.

19 THE COURT: You've had plenty of time to  
20 review the discovery?

21 MR. ELLIS: Yes, I have, Your Honor.

22 THE COURT: You don't have any reason to  
23 believe there's any discovery missing?

24 MR. ELLIS: No, Your Honor.

25 THE COURT: You've received the State's

1 notice of intent to offer evidence under 404 (b), 609  
2 and 37.07?

3 MR. ELLIS: Yes, Your Honor.

4 THE COURT: No issues relating to that  
5 notice?

6 MR. ELLIS: No, your Honor.

7 THE COURT: You've received the State's  
8 motion for notice of defense expert?

9 MR. ELLIS: Yes, I have, Your Honor.

10 THE COURT: Any opposition?

11 MR. ELLIS: No, your Honor.

12 THE COURT: Motion's granted.

13 You've received the State's notice of  
14 intent to call expert?

15 MR. ELLIS: Yes, Your Honor. No objection.

16 THE COURT: No issues relating to that  
17 notice?

18 MR. ELLIS: No.

19 THE COURT: And the State's response to the  
20 request to list witness. Same? No issues related to  
21 that?

22 MR. ELLIS: No issues.

23 THE COURT: State's motion to obtain  
24 fingerprints of the defendant. Any opposition to that  
25 motion?

1 MR. ELLIS: No, your Honor.

2 THE COURT: It's granted.

3 State's motion in limine. Any opposition  
4 to that as an in limine order only?

5 MR. ELLIS: No, your Honor.

6 THE COURT: That motion's granted as well.  
7 Is there any additional pretrial from the  
8 State?

9 MR. PUTMAN: Your Honor, we filed two  
10 supplemental notices of witnesses. Both are parole  
11 officers from Louisiana.

12 THE COURT: You received that information,  
13 Mr. Ellis?

14 MR. ELLIS: Yes, I have, Your Honor.

15 THE COURT: No issues relating to those  
16 notices?

17 MR. ELLIS: No, your Honor.

18 THE COURT: All right. Have you filed any  
19 other pretrial motions besides the motion to suppress?

20 MR. ELLIS: No, your Honor.

21 THE COURT: Are you requesting to take the  
22 motion to suppress up prior to trial?

23 MR. ELLIS: Yes, Your Honor.

24 THE COURT: All right.

25 In the event the Court grants the motion to

1 suppress, would that be dispositive of the case?

2 MR. PUTMAN: It would, Your Honor.

3 THE COURT: If the Court denies it, you're  
4 still planning to proceed to trial?

5 MR. ELLIS: No, your Honor.

6 THE COURT: You're not planning to proceed  
7 to trial?

8 MR. ELLIS: Can I have a moment,  
9 Your Honor?

10 THE COURT: You may. I kind of need to let  
11 the case behind you know what we're doing.

12 MR. ELLIS: Your Honor, I believe you asked  
13 if it would be dispositive if the Court denied the  
14 motion to suppress. It is our understanding that it  
15 will be dispositive.

16 THE COURT: That's not what I asked. I  
17 said would you still be proceeding to trial or would you  
18 enter a guilty plea subject to the Court's ruling on the  
19 motion to suppress?

20 MR. ELLIS: If the Court denied the motion  
21 to suppress, we would be entering a guilty plea.

22 THE COURT: Thank you.

23 All right. Then we'll take up the motion  
24 to suppress as soon as we make it through a few things  
25 here. I don't think it will be much more than

1 30 minutes before we get to you.

2 MR. ELLIS: Thank you.

3 THE COURT: Thank you.

4 (Recessed.)

5 THE COURT: All right. Back on the record  
6 in cause number 114-0648-13. State of Texas versus  
7 Joseph Pierce. Counsel for the State, counsel for the  
8 defendant and the defendant are present in the  
9 courtroom.

10 Is the State ready on the motion to  
11 suppress?

12 MR. PUTMAN: We are, Your Honor.

13 THE COURT: Defense ready?

14 MR. ELLIS: Yes, Your Honor.

15 THE COURT: All right.

16 Mr. Putman, was this a stop without the  
17 benefit of a warrant?

18 MR. PUTMAN: Yes, Your Honor. We would  
19 stipulate to the fact that there was a stop and a search  
20 of the vehicle without a warrant.

21 THE COURT: All right. And so we'll be  
22 looking to you to satisfy the burden?

23 MR. PUTMAN: Yes, Your Honor.

24 THE COURT: All right. You may proceed.

25 MR. PUTMAN: Your Honor, the State would



1 call Jeremy Frazier.

2 (Witness approaches the witness stand.)

3 MR. ELLIS: Your Honor, at this time we'll  
4 invoke the rule of witnesses.

5 THE COURT: All right. If you're a witness  
6 in the State of Texas versus Joseph Pierce, if you would  
7 please wait outside.

8 You'll be required to stay outside of the  
9 hearing of this testimony today and we'll call you when  
10 we need you as a witness. Please don't discuss your  
11 testimony with any other person. I'm also going to  
12 swear you as witnesses. Please raise your right hands  
13 to be sworn.

14 Do you solemnly swear or affirm to tell the  
15 truth, the whole truth and nothing but the truth so help  
16 you God?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: And you, ma'am?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: All right. And your name, sir?

21 THE WITNESS: Jeremy Frazier.

22 THE COURT: Thank you.

23 And you, ma'am?

24 THE WITNESS: Marlana Adams.

25 THE COURT: And you, sir?

1 THE WITNESS: Josh Hill.

2 THE COURT: All right. Thank you.

3 If you witnesses, then, would remain  
4 outside during Trooper Frazier's testimony. Thank you.

5 (Witnesses leave the courtroom.)

6 THE COURT: You've already been sworn.  
7 Please have a seat.

8 THE WITNESS: Yes, ma'am. Thank you.

9 THE COURT: Mr. Putman, your witness.

10 **DIRECT EXAMINATION**

11 BY MR. PUTMAN:

12 Q. Trooper Frazier, how are you currently  
13 employed?

14 A. I'm a trooper with the Texas Department of  
15 Public Safety.

16 Q. And how long have you been a trooper there?

17 A. Approximately 3 years.

18 Q. And are you a certified peace officer?

19 A. Yes, sir.

20 Q. How long have you been a certified peace  
21 officer?

22 A. Approximately 3 years.

23 Q. What kind of training and, you know, education  
24 have you had regarding being a police officer and a  
25 state trooper?

1           A.    Extensive training as far as DWI goes.  
2 Training for DWI, training for criminal and drug  
3 interdiction, training for crash investigations, things  
4 like that.

5           Q.    When you were hired on as a trooper, did you go  
6 to the DPS Academy for all troopers?

7           A.    Yes, sir.

8           Q.    How long was that?

9           A.    Approximately 4 and a half, 5 months.

10          Q.    And what kinds of things did you learn there?

11          A.    Patrol procedure, (inaudible) violator contact,  
12 know how to approach a vehicle, DWI and field sobriety  
13 testing.

14          Q.    Have you had any specific schools or training  
15 since the academy with DPS?

16          A.    Yes, sir.

17          Q.    Could you tell us what those are?

18          A.    ARIDE, which is Advanced Roadside Impairment  
19 Training for DWI, several criminal drug interdiction  
20 classes, interview and interrogation classes. That's  
21 all -- all I recall off the top of my head.

22          Q.    What is drug interdiction. You said you had  
23 classes on that. What does that mean?

24          A.    Criminal drug interdiction is basically  
25 detecting -- stopping somebody on the side of the road

1 and going past your routine traffic stop and seeing if  
2 there's something further past the traffic stop, whether  
3 it be illegal drugs, currency procedures, missing or  
4 exploited children, human smuggling, things of that  
5 nature.

6 Q. What specific training have you had regarding  
7 drug -- or interdiction?

8 A. I've been to numerous HIDTA classes.

9 Q. What does that stand for?

10 A. I couldn't tell you right now, sir.

11 Q. What is it?

12 A. Highway interdiction. It's an interdiction  
13 class.

14 Q. Okay. And how many of those classes have you  
15 been to?

16 A. Approximately three in the past year.

17 Q. And any other training regarding interdiction  
18 or drug interdiction?

19 A. I've been to -- I think one has been a --  
20 Desert Snow class, which is another program, but I can't  
21 recall exactly if that was -- who sponsored it or not.

22 Q. And you said you've had classes regarding  
23 impaired drivers; is that right?

24 A. Yes, sir.

25 Q. What classes have you had regarding those

1 things?

2 A. We do a field sobriety refresher class once a  
3 year. I've been to that. I've also been to the  
4 advanced -- ARIDE, which is the Advanced Roadside  
5 Impairment Program, which is something that goes past  
6 the normal alcohol DWI and leans more towards DWI due to  
7 drugs.

8 Q. And how long was the ARIDE course?

9 A. I believe it's a week.

10 Q. And that's for the impaired driving on things  
11 other than alcohol; is that what you said?

12 A. Yes, sir. That's correct.

13 Q. Any other training and experience you've had  
14 regarding interdiction stops or impaired drivers?

15 A. Off the top of my head, no.

16 Q. As a Trooper, you work the highways of the  
17 State of Texas; is that right?

18 A. Correct.

19 Q. Mainly going about enforcing the laws through  
20 traffic laws; is that correct?

21 A. Correct sir.

22 Q. You've had training in the Penal Code and the  
23 traffic -- Transportation Code?

24 A. Yes, sir.

25 Q. And you're familiar with the offenses there and

1 you spend a lot of time on the highway; is that right?

2 A. Yes, sir.

3 Q. What's your jurisdiction? Where are you  
4 currently assigned?

5 A. I'm assigned to Smith County.

6 Q. And how long have you been in Smith County?

7 A. Just over 2 years.

8 Q. When you're working in Smith County, do you  
9 work in specific areas in Smith County or how does that  
10 work?

11 A. We don't have a specific area that we're  
12 assigned to. Just the county and so --

13 Q. How --

14 A. -- wherever we want to work, kind of.

15 Q. How do you decide where you're going to work on  
16 a particular day?

17 A. Just kind of wherever I feel like working that  
18 day.

19 Q. Okay. Were you working as a Trooper for the  
20 Department of Public Safety on February 22nd of this  
21 year?

22 A. Yes, sir.

23 Q. And do y'all work a shift?

24 A. Yes, sir.

25 Q. What shift were you working back in February;

1 do you remember?

2 A. I'll have to refer to my case report.

3 Q. Did you bring your report with you?

4 A. Yes, sir.

5 Q. And you prepared this report; is that correct?

6 A. That's correct, sir.

7 Q. And why did you prepare the report?

8 A. It's required on all arrests.

9 Q. Does referring to it help to refresh your  
10 memory?

11 A. Yes, sir. It does.

12 Q. If you need to refer to it to refresh your  
13 memory, you can.

14 When were you working on February 22nd?

15 A. I was working a shift from 12:00 p.m. to  
16 1:00 a.m.

17 Q. 12:00 p.m. to 1:00 a.m.?

18 A. Yes, sir.

19 Q. So that's the afternoon up until just past  
20 midnight?

21 A. Yes, sir.

22 Q. And where were you working that day?

23 A. Interstate 20.

24 Q. And does a portion of Interstate 20 pass  
25 through Smith County?

1           A.    Yes, sir.

2           Q.    And were you working on that portion of  
3 Interstate 20?

4           A.    Yes, sir.  I was.

5           Q.    When you're working the interstate, what kind  
6 of things do you do?

7           A.    We do -- we stop, obviously, for traffic  
8 violations, do crash investigations.  We have a lot of  
9 crashes on the interstate and also DWIs because we have  
10 a lot of them going back and forth from the casinos in  
11 Louisiana.  So that's something we do there also.

12          Q.    When you are up on the interstate and you're  
13 not actively -- you don't have someone pulled over and  
14 you're waiting, I guess, what do you do?  I mean, are  
15 you sitting still, are you driving, what do you do?

16          A.    We do both.  Sometimes we work patrol moving  
17 and sometimes we'll sit still on the shoulder of the  
18 road.  So we do both.

19          Q.    Is there advantages and disadvantages of the  
20 two different ways to do it?

21          A.    Yes, sir.  There are advantages and  
22 disadvantages to both.

23          Q.    Why would you sit still?  What's the purpose of  
24 that?

25          A.    It's easier to not -- to see equipment



1 violations, as far as headlights being out, things like  
2 that.

3                   Also it's easier for me to detect, you  
4 know, if somebody's impaired when they drive by, rather  
5 than me just driving and only getting a glimpse of the  
6 car for half a second.

7           Q.    I guess if you're driving on the interstate,  
8 you have the cars that are moving with you?

9           A.    Yes, sir.

10          Q.    And then you have the ones moving the opposite  
11 direction?

12          A.    Yes, sir.

13          Q.    The ones going in the opposite direction, hard  
14 to see them for very long?

15          A.    Correct.

16          Q.    And the ones moving with you, you're not seeing  
17 that many different cars?

18          A.    Correct.

19          Q.    Because they're moving along with you?

20          A.    Correct, sir.

21          Q.    If you're sitting still, a lot of cars pass  
22 you?

23          A.    Yes, sir.

24          Q.    The night of the 22nd, what were you doing?  
25 Were you driving with traffic or sitting still?

1           A.    I was sitting still.

2           Q.    And do you recall where you were on the  
3 interstate; where you were sitting?

4           A.    Yes, sir.

5           Q.    Where were you?

6           A.    I was on the eastbound side of the Interstate  
7 sitting at the scale house.

8           Q.    And you said sitting at the scales?

9           A.    Yes, sir.

10          Q.    What does that mean?

11          A.    It's where we have our commercial  
12 motor vehicles pull over so we can weigh the trucks.

13          Q.    So a place you can kind of pull off the  
14 Interstate and get back on?

15          A.    Yes, sir.  It's a place we use that's a little  
16 bit safer for us.  That way we're not right next to the  
17 interstate, right on top of the road.  And it will  
18 provide a little bit more of a buffer for us so if  
19 somebody was to drive by intoxicated and hit our car.

20          Q.    Safer than sitting on the shoulder?

21          A.    Yes, sir.

22          Q.    And when you're sitting there by the scales,  
23 are you facing the direction of traffic, against  
24 traffic, or perpendicular?  How are you --

25          A.    I was facing sideways.  That way I could see

1 the traffic that was coming towards me and after they  
2 passed me.

3 Q. So sideways -- the hood of your car was facing  
4 what direction?

5 A. It was facing northbound.

6 Q. Okay. And I 20 travels what direction?

7 A. It travels east and westbound.

8 Q. Okay. So the cars drive by in front of you?

9 A. Yes, sir.

10 Q. Does your patrol car that you drive, does it  
11 have recording equipment in it?

12 A. Yes, sir. It does.

13 Q. What kind of equipment does it have?

14 A. It has a WatchGuard video camera.

15 Q. And what -- where is that camera in the car?

16 A. It's mounted on the windshield of my patrol  
17 car.

18 Q. And which direction does it face?

19 A. It faces forward.

20 Q. Forward -- so forward out the windshield?

21 A. It's faced towards my windshield. But it also  
22 has a cabin camera that can be switched so you can see  
23 inside the vehicle.

24 Q. Okay. So it will either shoot in front of the  
25 car or inside the car?

1           A.    Yes, sir.  That's correct

2           Q.    Is it able to capture the peripheral of the  
3 car, you know, out the driver's side window or passenger  
4 side window?

5           A.    Not out the side windows, but it does get a  
6 pretty good peripheral view of the --

7           Q.    Out the front?

8           A.    Yes, sir.

9           Q.    Just not out the sides?

10          A.    Correct.

11          Q.    Was your camera working the night of February  
12 22nd?

13          A.    Yes, sir.

14          Q.    And have you had an opportunity to review the  
15 recording from your patrol car that night?

16          A.    Yes, sir.  I have.

17                   MR. PUTMAN:  May I approach the witness,  
18 Your Honor?

19                   THE COURT:  You may.

20          Q.    (BY MR. PUTMAN)  Trooper, I'm going to show you  
21 what I've marked as State's 1S.  The camera that you  
22 had, was it working properly?

23          A.    Yes, sir.

24          Q.    And is it able to record audio/voices?

25          A.    Yes, sir.  It does.

1 Q. And how does it do that?

2 A. I have a body mic on my belt so when I approach  
3 the vehicle it picks that up.

4 Q. You've had an opportunity to review State's 1S  
5 and listen to the voices that are heard on the tape?

6 A. Yes, sir.

7 Q. On the recording. It's a DVD; it's not tape.  
8 But you've listened to the recording and  
9 seen it. Is it an accurate recording of what happened  
10 that night?

11 A. Yes, sir. It is.

12 Q. And are you able to recognize the voices and  
13 the people that appear on that video?

14 A. That's correct.

15 MR. PUTMAN: Your Honor, we'd offer State's  
16 1S for purposes of this hearing.

17 MR. ELLIS: No objection.

18 THE COURT: State's 1S is admitted for  
19 purposes of this hearing.

20 MR. PUTMAN: Permission to publish,  
21 Your Honor?

22 THE COURT: You may.

23 Q. (BY MR. PUTMAN) Trooper Frazier, if you would  
24 touch the bottom left corner on the screen, it will  
25 actually clear those arrows off. You have to actually

1 touch on the screen right in the corner. There you go.

2 (State's Exhibit 1S published.)

3 Q. (BY MR. PUTMAN) All right. Where are we  
4 looking at the screen we're looking at here?

5 A. That's the eastbound side of Interstate 20.

6 Q. So you're facing the interstate, cars are  
7 driving by across the screen in front of us?

8 A. Correct, sir.

9 Q. Is this where you were sitting?

10 A. Yes, sir.

11 Q. Do you recall about what time it was where this  
12 video picks up where we're here on the interstate?

13 A. No, sir. I don't.

14 Q. It's dark outside; is that right?

15 A. Yes, sir. It is.

16 Q. Nighttime?

17 A. Yes, sir.

18 Q. And I think you said you work the 12:00 p.m. to  
19 1:00 a.m. shift?

20 A. Correct.

21 Q. So this would be later in your shift?

22 A. Yes, sir. It is.

23 Q. Okay. As cars are driving by, what are you  
24 looking for?

25 A. I'm looking for several things. Equipment

1 violations, head lights, taillights, erratic driving,  
2 things like that.

3 Q. Trooper, I think -- I believe on the software  
4 that's playing here you can see the count at the bottom;  
5 is that right?

6 A. Yes, sir.

7 Q. That's not the time. It's counting the minutes  
8 and seconds that go by?

9 A. Correct, sir.

10 Q. Okay. Trooper, the counter says about 3:17 and  
11 you've now pulled onto the interstate, correct?

12 A. Correct.

13 Q. Why did you pull onto the interstate at that  
14 time?

15 A. I noticed the car that drove by me. And when  
16 the car went by, I noticed that it crossed over that  
17 white line.

18 Q. Which white line are you talking about?

19 A. The one on the right-hand side.

20 Q. That line divides what?

21 A. The Interstate from the shoulder.

22 Q. Okay. So the car you saw, did it drive on the  
23 white line or did cross over into the shoulder?

24 A. It crossed over. Its tires cleared the white  
25 line.

1 Q. And drove onto the shoulder?

2 A. Yes, sir.

3 Q. Is that a traffic violation?

4 A. Yes, sir. It is.

5 Q. And then you turned on to the interstate to get  
6 behind that car?

7 A. Yes, sir.

8 Q. Are you about to initiate a traffic stop on  
9 that vehicle?

10 A. Yes, sir.

11 Q. All right. Trooper, to be clear, the car that  
12 you saw driving on the shoulder, can you see that car in  
13 the video now?

14 A. Yes, sir. It's the vehicle on the right-hand  
15 side.

16 Q. In the right lane there?

17 A. Yes, sir.

18 Q. And you're in the left lane?

19 A. Yes, sir.

20 Q. And what direction of travel are y'all heading?

21 A. Eastbound.

22 Q. Eastbound?

23 A. Yes, sir.

24 Q. And in Smith County, if you're eastbound on  
25 I 20, you're headed towards what state?



1           A.    Louisiana.

2           Q.    Okay.  This car, is that the car you saw drive  
3 on the shoulder?

4           A.    Yes, sir.

5           Q.    Were you able to see it drive on the shoulder  
6 in the video?

7           A.    At what point?

8           Q.    Before you pulled behind them.

9           A.    No, sir.

10          Q.    I'm guessing you pulled in behind the vehicle,  
11 correct?

12          A.    Yes, sir.

13          Q.    Before you pulled in behind the vehicle, is  
14 that when you saw them drive on the shoulder?

15          A.    I saw two different -- I'm not sure exactly  
16 what you're asking.  I saw it at two different points.

17                   When the vehicle was approaching me, it  
18 crossed over the -- when it was just passing the  
19 structure--which you can't see--of the scale house, it  
20 crossed over the shoulder and that's the reason why I  
21 pulled out on to the interstate.

22                   Once I was coming up behind the vehicle, it  
23 rode on top of the white line, which is still driving on  
24 the improved shoulder, which is still a traffic  
25 violation, so it was actually two different times.

1           Q.    Okay.  So the part where it actually crossed  
2 over the line was by the scale house?

3           A.    Yes, sir.

4           Q.    And we couldn't see the scale house on the  
5 video?

6           A.    Correct, sir.

7           Q.    Because we're not -- the video is not facing  
8 that direction?

9           A.    Correct.

10          Q.    But obviously, if you turned your head, you  
11 could see it?

12          A.    Yes, sir.

13          Q.    All right.  Trooper, y'all come to a stop  
14 behind that vehicle; is that right?

15          A.    Yes, sir.

16          Q.    Can you tell us the time on the counter there  
17 at the bottom?

18          A.    4 minutes and 56 seconds.

19          Q.    Trooper, we heard you ask, "Have you had  
20 anything to drink?"  Why were you asking that?

21          A.    Because of their driving behavior.

22          Q.    What was significant about the driving behavior  
23 to you?

24          A.    Just the fact that they had crossed over the  
25 shoulder several times.

1           Q.   Were you suspicious of anything when you first  
2 pulled them over other than the traffic offense?

3           A.   Of DWI.  Yes, sir.  Just suspicious of it.

4           Q.   That's why you asked about drinking?

5           A.   Correct, sir.

6           Q.   And you approach on the passenger side of the  
7 vehicle stopped here on the shoulder of I 20?

8           A.   Yes, sir.

9           Q.   And why did you do that?

10          A.   Because there's a lot of intoxicated drivers on  
11 the road and they will tend to look at lights.  And when  
12 they tend to look at lights, they tend to hit us.

13                       So I moved to the passenger side just to  
14 give myself a place to get away so I don't get smashed  
15 between two cars.

16          Q.   Safer on that side?

17          A.   Yes, sir.

18          Q.   Okay.  And you asked for their identification;  
19 is that right?  Driver's license?

20          A.   Yes, sir.

21          Q.   Trooper Frazier, what -- you've asked for a  
22 license.  About 30 seconds to a minute has gone by.  
23 What's happening now?

24          A.   I asked him for his driver's license.  He told  
25 me that his driver's license had been suspended.  I

1 asked him for proof of insurance and the passenger  
2 provided that. So right now, basically, I'm going  
3 through the process of trying to figure out what the  
4 deal with his driver's license is and waiting for the  
5 insurance.

6 Q. Who was in the car when you walked up to the  
7 passenger side?

8 A. Marlana Adams.

9 Q. She was sitting where in the car?

10 A. Front passenger seat.

11 Q. And who else was in the car?

12 A. Mr. Pierce.

13 Q. And where was Mr. Pierce seated?

14 A. In the driver's seat.

15 Q. Anybody else in the car besides the driver and  
16 the passenger?

17 A. No, sir.

18 Q. Do you see the driver of the vehicle in court  
19 today?

20 A. Yes, sir.

21 Q. Could you point to him and tell me what he's  
22 wearing?

23 A. Purple shirt.

24 MR. PUTMAN: Ask the record reflect the  
25 witness has identified the defendant.

1                   THE COURT: The record shall so reflect.

2           Q.   (BY MR. PUTMAN) Is there anything unusual  
3 about what's going on in the car while you're standing  
4 there?

5           A.   Yes, sir. There is.

6           Q.   What did you notice that you thought was  
7 unusual?

8           A.   When I approach a vehicle -- well, Mr. Pierce  
9 automatically told me that his driver's license was  
10 suspended, which isn't incredibly unusual.

11                   But a lot of times when people are overly  
12 nice, it tends to raise my suspicion a little bit. And  
13 also they both seemed to be really nervous.

14           Q.   So Mr. Pierce told you initially that his  
15 driver's license was suspended?

16           A.   Yes, sir.

17           Q.   First thing he told you?

18           A.   Yes, sir.

19           Q.   Is that an offense in the State of Texas that  
20 someone could be arrested for?

21           A.   Yes, sir. It is.

22           Q.   Okay. And after he told you that, then what  
23 happened next?

24           A.   I asked for the insurance. Ms. Adams was  
25 looking for that, kind of going through her purse or

1 some paperwork in the console, trying to find the  
2 insurance. And that's what I'm waiting on right now.

3 Q. Okay.

4 A. I believe I asked her for her -- I don't  
5 remember if it was at this point or another. I asked  
6 her for her ID to make sure I had a licensed driver in  
7 the vehicle is the reason I asked for her ID also.

8 Q. Trooper Frazier, is Ms. Adams able to get some  
9 documents out of the glove box?

10 A. Yes, sir. She was able to get the insurance  
11 out of the glove box.

12 Q. Anything unusual about that?

13 A. Yes, sir. Very unusual. Her hands were  
14 shaking extremely bad whenever she went to the glove box  
15 and handed me the insurance card.

16 Q. You work the highways of the State of Texas?

17 A. Yes, sir.

18 Q. Pull over lots of people?

19 A. Yes, sir.

20 Q. People usually nervous when you pull them over?

21 A. A little bit sometimes.

22 Q. And in your training and experience, was  
23 Ms. Adams the usual amount of nervous when you pull  
24 somebody over?

25 A. No, sir. She was overly nervous.

1 Q. And what indicated that to you?

2 A. The extreme shaking of her hands.

3 Q. Her hands were shaking noticeably?

4 A. Yes, sir. Noticeably.

5 Q. And I think we heard you say you wanted

6 Mr. Pierce to get out of the car?

7 A. Yes, sir.

8 Q. Why is that?

9 A. He didn't -- he had asked me a question about  
10 the suspension of his driver's license. So rather than  
11 me going back and forth and walking back and forth  
12 between the cars and risk getting hit, it was cold  
13 outside, so I was just going to have him sit back in my  
14 car with me. That way I can ask him the questions and  
15 try to figure out what the suspension -- or if his  
16 driver's license was suspended.

17 Q. Try to further investigate --

18 A. Yes, sir.

19 Q. -- whether his license was suspended or not?

20 A. Yes, sir.

21 Q. Okay.

22 A. Correct.

23 Q. Did you notice anything about Ms. Adams' or  
24 Mr. Pierce's appearance while you were talking to them?

25 A. Yes, sir. I did.

1 Q. What did you notice?

2 A. I noticed they were both -- had lots of sores  
3 on them, which is common with methamphetamine use.

4 Q. And how do you know that?

5 A. From my training and experience.

6 Q. And where did you observe sores?

7 A. On their face and on their arms.

8 Q. Okay. Trooper Frazier, you were just checking  
9 his pockets and his waistband; is that right?

10 A. Yes, sir.

11 Q. Why did you do that?

12 A. To make sure he didn't have any weapons, any  
13 guns or knives, on him before I put him in my vehicle.

14 Q. Why were you sitting him in your vehicle?

15 A. So I could ask him the questions for his  
16 driver's license -- about his driver's license.

17 Q. Why not just ask him on the side of the road?

18 A. Because it's safer in my car and also it was  
19 cold and windy outside.

20 Q. Could you -- on the video -- could you describe  
21 what Mr. Pierce is wearing?

22 A. Black T-shirt and blue jeans.

23 Q. And what's the concern? I mean, why do you  
24 need to check his pockets if you're going to put him  
25 inside of your car?



1           A.    Because we're within arms' reach of each other  
2 and if he had a pocket knife in his pocket, he could  
3 just open it up and literally just stab me or, you know,  
4 hurt me.

5           Q.    So that's a concern because he's going to be  
6 closer to you inside of your vehicle?

7           A.    Correct. Yes, sir.

8           Q.    And the parts on Mr. Pierce that you checked  
9 before he sat in your car, what areas of him did you  
10 check?

11          A.    His pockets and his waistband, which are common  
12 for people to carry weapons on.

13          Q.    Blue jean pockets?

14          A.    Yes, sir.

15          Q.    Did he have any weapons on him?

16          A.    No, sir. He did not.

17          Q.    Trooper Frazier, where did Mr. Pierce say they  
18 were coming from?

19          A.    I believe they said they were coming from -- I  
20 don't recall if it was her family or his family.

21          Q.    Okay. If you need to refresh your memory with  
22 your report, you can.

23          A.    Okay. He stated that he was -- they were  
24 coming from her -- Ms. Adams' cousin's house and headed  
25 home to Louisiana.

1 Q. So from Ms. Adams' cousin's house to Louisiana?

2 A. Correct, sir.

3 Q. All right. Trooper Frazier, you asked

4 Mr. Pierce about if he had ever been arrested before?

5 A. Yes, sir.

6 Q. What was his response to that question?

7 A. He said, "Yes, sir. I have."

8 Q. Did he tell you what he had been arrested for?

9 A. He went through several things. Yes, sir.

10 Q. Can you tell us what those things are?

11 A. If it's not in the report -- I'll check and see  
12 if it's in the report. I had a hard time understanding  
13 what he was saying in the video.

14 Q. Okay. Can you describe Mr. Pierce's demeanor  
15 while he's sitting in the car? Obviously, we can't see  
16 him in the video right now. He's sitting on the front  
17 passenger seat next to you?

18 A. Yes, sir.

19 Q. Is he handcuffed?

20 A. No, sir. He's not.

21 Q. Is he arrested at that time?

22 A. No, sir. He's not.

23 Q. What's his demeanor like while he's sitting  
24 next to you?

25 A. He's nervous and fidgeting around. Having a

1 hard time sitting still.

2 Q. And you say nervous. What indicated to you  
3 that he was nervous?

4 A. The way he was answering the questions. The  
5 way he was moving around. His eyes were moving around a  
6 bunch. Those are the biggest things.

7 Q. Did his -- the way he was fidgeting around and  
8 moving, did that make you suspicious of anything?

9 A. Yes, sir. It's also one of the effects of  
10 methamphetamines. It's -- somebody can't sit still and  
11 is constantly fidgeting.

12 Q. And what training have you had regarding the  
13 effects of methamphetamines on how somebody acts?

14 A. The ARIDE class that I went to. The Advanced  
15 Roadside Impairment.

16 Q. Trooper Frazier, you asked Mr. Pierce a series  
17 of questions about illegal things in the vehicle?

18 A. Yes, sir.

19 Q. And I think it was guns, marijuana, things like  
20 that?

21 A. Yes, sir.

22 Q. Did you ask those things in a specific order?

23 A. Yes, sir. I did.

24 Q. And how did you ask those?

25 A. I asked marijuana, guns, drugs, large sums of

1 cash. And I asked -- specifically asked methamphetamine  
2 last because I wanted to see his reaction to me asking  
3 him that question.

4 Q. Okay. Why did you put meth last?

5 A. Because that's what I suspected. If he had any  
6 illegal drugs in the vehicle, that's what it would be.

7 Q. At that time you were suspicious that there  
8 might be meth?

9 A. Yes, sir.

10 Q. And that was based on what?

11 A. Based on my training and experience.

12 Q. What specific things had you noticed that  
13 caused you to suspect meth and not something else?

14 A. The level of nervousness. But that, I mean,  
15 would cover drugs all together. The meth sores that are  
16 on him and Ms. Adams.

17 Also, whenever I was checking for weapons,  
18 I felt something in his pocket and he pulled it out and  
19 I asked him what it was and it was a remote. It was a  
20 remote and several loose wires and things in his pocket.

21 And that's one of the things that's also  
22 common with meth users. People who are on meth like to  
23 take apart electronics.

24 Q. Okay.

25 A. So I noticed a lot of wires and loose things in

1 his pockets and that also made me suspicious.

2 Q. That was one of the factors?

3 A. Yes, sir.

4 Q. So when you asked methamphetamine last in that  
5 series of questions, what kind of response did you get?

6 A. Well, when I asked the other questions first,  
7 you know, he was responding to me pretty, you know,  
8 normally.

9 And when I asked meth last, he kind of  
10 dropped his head and thought about it and I could see a  
11 change in his demeanor and then answered no. But it  
12 took a little while for him to answer that.

13 Q. So he said no to each of those questions?

14 A. Correct.

15 Q. But when you asked meth, his demeanor changed?

16 A. Yes, sir.

17 Q. Is that a suspicious indicator to you?

18 A. Yes, sir. It is.

19 Q. Is that why you asked it last?

20 A. Yes, sir.

21 Q. To see how he would respond?

22 A. Yes, sir. It is.

23 Q. Trooper Frazier, can you tell us what the  
24 counter is on the video there?

25 A. 15 minutes, 3 seconds.

1           Q.    Okay.  And about 15 minutes in you asked him if  
2 you could have permission to search the car; is that  
3 right?

4           A.    Correct.

5           Q.    And did he give you permission to search?

6           A.    No, he did not.

7           Q.    About this time, 15 minutes in, is when you  
8 said he would not allow you to search?

9           A.    Correct.

10          Q.    I think we just heard that right after I paused  
11 it at 15 minutes.

12                    You informed him that you would be trying  
13 to get a canine out there to do a free air search; is  
14 that right?

15          A.    Yes, sir.

16          Q.    You were informing Mr. Pierce of that?

17          A.    Yes, sir.

18          Q.    That's not when you actually called for the  
19 canine; that's when you told Mr. Pierce you were going  
20 to do that?

21          A.    Correct, sir.

22          Q.    Okay.  Trooper Frazier, you're now talking to  
23 Ms. Adams, who's in the front passenger seat of the car?

24          A.    Correct.

25          Q.    Did she tell you where they had been coming

1 from and where they were going?

2 A. Yes, sir.

3 Q. Where did she state that they were coming from?

4 A. That they were in Wills Point to see his  
5 family.

6 Q. Is that different than what Mr. Pierce told  
7 you?

8 A. Yes, sir. It is.

9 Q. How is it different?

10 A. She stated that they were seeing his family and  
11 she stated that -- she stated that they were seeing his  
12 family, she stated -- he stated that they were seeing  
13 her family. I think I got that right.

14 Q. So each indicated they were there to see each  
15 other's family?

16 A. Yes, sir.

17 Q. And obviously when Mr. Pierce told you where  
18 they were going and coming from, Ms. Adams wasn't within  
19 earshot at that time?

20 A. Correct.

21 Q. He was inside your car?

22 A. Yes, sir.

23 Q. And at this time when you're having a  
24 conversation with Ms. Adams, Mr. Pierce is still in your  
25 car?

1 A. Correct.

2 Q. So he can't overhear what she says?

3 A. Yes, sir.

4 Q. All right. Did their stories of where they  
5 were coming from, did those conflict?

6 A. Yes, sir. They did.

7 Q. Trooper, you opened up the back. What are you  
8 doing?

9 A. I'm getting his jacket out for him.

10 Q. Why did you do that?

11 A. Because it's cold outside and he's going to  
12 stand outside the vehicle.

13 Q. So you were going to get him outside of your  
14 car?

15 A. Yes, sir.

16 Q. And it was cold out there? It was cold that  
17 night?

18 A. Yes, sir.

19 Q. I think you let Ms. Adams get her jacket?

20 A. Yes, sir.

21 Q. And did you already discuss with Mr. Pierce  
22 about getting a jacket and to wait outside?

23 A. Yes, sir. I have.

24 Q. Okay. Are you checking the jacket now for  
25 weapons?



1           A.    Yes, sir.

2           Q.    Why are you doing that?

3           A.    For officer safety.

4           Q.    And why did you feel you needed to check --  
5 there was an officer safety issue? What was the issue  
6 there?

7           A.    The potential for guns or knives.

8           Q.    Okay. Where were you going to have Mr. Pierce  
9 wait?

10          A.    The ditch, basically, where Ms. Adams is but  
11 further up by my car.

12          Q.    Okay. Trooper Frazier, what's the counter on  
13 the video now?

14          A.    24:36.

15          Q.    And this is the point where you're calling for  
16 a canine to come out?

17          A.    Yes, sir.

18          Q.    And that's at 24 minutes, 36 seconds in to the  
19 video?

20          A.    Yes, sir. Correct.

21          Q.    Trooper Frazier, who were you talking to over  
22 the radio?

23          A.    Over the radio I was talking to  
24 Trooper Kris Baker.

25          Q.    And was there a -- does DPS have a drug dog?

1           A.    Yes, sir.   We do.

2           Q.    And was your -- the DPS drug dog available that  
3 night?

4           A.    No, sir.   He was in Waco in training.   And  
5 that's what I was talking to the sergeant about was the  
6 fact that he wasn't available right then.

7           Q.    Trying to see if you could find another agency  
8 dog?

9           A.    Yes, sir.   That's correct.

10          Q.    Trooper, can you tell us what the counter reads  
11 on the video?

12          A.    30 minutes, 27 seconds.

13          Q.    And you just said the dog was on its way?

14          A.    Correct, sir.

15          Q.    That's when you found out somebody was coming  
16 with a dog?

17          A.    Yes, sir.

18          Q.    Trooper Frazier, there's another trooper in the  
19 video now; is that right?

20          A.    Yes.

21          Q.    Who is that?

22          A.    Trooper Baker.   Kris Baker.

23          Q.    And he's not the canine officer?

24          A.    No, he is not.

25          Q.    He just showed up to assist?

1           A.    Correct.

2           Q.    Trooper Frazier, we can see you and  
3 Trooper Baker on the video now.  What's Trooper Baker  
4 doing?

5           A.    He explained to Mr. Pierce that just not long  
6 before that, we had had somebody in the same situation,  
7 who was waiting on a canine, they jumped in their car  
8 and drove off.  The vehicle was still running.

9                        So we explained to them -- which I didn't  
10 realize, but the driver's side window was down.  The  
11 canine officers always want them up.

12                      So he rolled up that window and we  
13 explained to him about we were going to take the keys  
14 out of the vehicle so he couldn't jump in it and drive  
15 off.

16          Q.    So at this point, it's about 41 minutes in to  
17 the vehicle, the car that you pulled over has been  
18 running the whole time?

19          A.    Correct.

20          Q.    Key's in the ignition, even though nobody's in  
21 the car?

22          A.    Correct.

23          Q.    So Trooper Baker was taking the keys out of the  
24 ignition?

25          A.    Correct.

1           Q.    Just to be clear, Trooper Baker took the keys  
2 out of the ignition and then closed the door back; is  
3 that right?

4           A.    Correct.

5           Q.    Didn't remove anything else from the vehicle?

6           A.    No, he did not.

7           Q.    Okay. Trooper, a couple of times in the video  
8 now we talked about who owns the car; is that right?

9           A.    Correct.

10          Q.    Did Mr. Pierce or Ms. Adams, were they the  
11 owner of the vehicle?

12          A.    Sir?

13          Q.    Who was the owner of the vehicle?

14          A.    Ms. Adams stated that her cousin's mother, I  
15 believe, owned the vehicle.

16          Q.    Not Mr. Pierce?

17          A.    Correct.

18          Q.    Not Ms. Adams?

19          A.    Correct.

20          Q.    Was it registered -- a car registered in the  
21 State of Texas?

22          A.    No, sir. It was not.

23          Q.    Was it registered in Louisiana?

24          A.    No, sir. It was not.

25          Q.    Where was it registered?

1           A.    It was registered out of Arkansas.

2           Q.    The fact that they were in Texas headed to  
3 Louisiana with a car registered in a different state, is  
4 that significant to you?

5           A.    Yes, sir.  It is.

6           Q.    Why is that?

7           A.    A lot of times whenever somebody is carrying  
8 illegal drugs, they'll have a vehicle that's registered  
9 from another state and they -- they have a link to it,  
10 but they don't have a link to it, I guess you could say.  
11 It's a third-party vehicle.  So it raised my suspicion.

12          Q.    It's not belonging to them?

13          A.    Correct.

14          Q.    It's belonging to some third party?

15          A.    Yes, sir.  Correct.

16                   THE COURT:  Mr. Putman, would you stop the  
17 video for a minute, please.

18                   MR. PUTMAN:  (Complies.)

19                   THE COURT:  I'm going to go ahead and take  
20 up Mr. Gregory's case since it's 11:30.  We'll come  
21 right back to this.

22                   (Recessed.)

23                   THE COURT:  Mr. Ellis, are you ready to  
24 proceed?

25                   MR. ELLIS:  Yes, Your Honor.

1                   THE COURT: All right. You may proceed,  
2 Mr. Putman.

3                   (State's Exhibit 1S published.)

4           Q. (BY MR. PUTMAN) Trooper, I heard you say,  
5 "There he is right there." What did you mean?

6           A. The canine officer.

7           Q. And could you tell us the time on the counter  
8 there?

9           A. It's 52 minutes and 32 seconds.

10          Q. And that's when the canine officer arrived?

11          A. He was passing by on the westbound side.  
12 Yes, sir.

13          Q. Trooper, what's the counter on the video now?

14          A. 57 minutes and 39 seconds.

15          Q. Okay. And can we see the dog going around the  
16 vehicle at this point?

17          A. Yes, sir.

18          Q. Okay. So the dog's searching at this time?

19          A. Yes, sir.

20          Q. And what's the counter on the video now?

21          A. 58 minutes and 17 seconds.

22          Q. And does it appear that the dog search as been  
23 completed now?

24          A. Yes, sir.

25          Q. Were you informed by the dog handler as to

1 whether or not the dog alerted or not?

2 A. Yes, sir. I was.

3 Q. And were you informed that the dog did alert or  
4 did not alert?

5 A. That he did alert.

6 Q. All right. Trooper, what's the counter now?

7 A. Counter is 59 minutes and 49 seconds.

8 Q. And what are you and Trooper Baker about to  
9 start doing?

10 A. Conducting a vehicle search.

11 Q. And did y'all search the vehicle at this time?

12 A. Yes, sir. We did.

13 Q. And did you find anything when y'all searched  
14 the vehicle?

15 A. Yes, sir. We did.

16 Q. What did y'all find?

17 A. We found a large gallon-sized clear bag with --  
18 I'm trying to find the amount on it. But approximately  
19 a pound and a half of methamphetamine.

20 Q. Where in the vehicle did you find it?

21 A. It was in the back passenger -- backseat on the  
22 passenger's -- driver's side.

23 Q. In the passenger compartment of the vehicle?

24 A. Yes, sir.

25 Q. And the backseat?

1           A.    Yes, sir.

2           Q.    Which side:  the driver's side or the  
3 passenger's side?

4           A.    The driver's side.  Behind the driver's seat in  
5 a black backpack.

6           Q.    Inside of a black backpack?

7           A.    Yes, sir.  That's correct.

8           Q.    Did you place anyone under arrest for that  
9 methamphetamine?

10          A.    Yes, sir.  We did.

11          Q.    Who did you place under arrest for that?

12          A.    Mr. Pierce and Ms. Adams.

13               MR. PUTMAN:  We pass the witness.

14               THE COURT:  Mr. Ellis?

15               MR. ELLIS:  Thank you, Your Honor.

16               Your Honor, just a housekeeping matter.

17 I'm just wondering what time we plan to stop?

18               THE COURT:  Probably around 12:30, maybe a  
19 little later.

20               MR. ELLIS:  In that case, could I have a  
21 brief recess to make a phone call, Your Honor?  I have a  
22 meeting I don't want to miss.

23               THE COURT:  Sure.  5 minutes.

24               MR. ELLIS:  Thank you, Judge.

25               THE COURT:  Trooper Frazier, we're going to



1 be in recess for 4 and a half minutes now.

2 If you want to step down, you may. Don't  
3 discuss your testimony with anyone as you're currently  
4 on the witness stand.

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Thank you.

7 (Recessed.)

8 THE COURT: All right. Back on the record  
9 in cause number 114-0648-13. State of Texas versus  
10 Joseph Pierce. Counsel for the State, for the defendant  
11 and the defendant are present. You may be seated.

12 Mr. Ellis, your witness.

13 MR. ELLIS: Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 BY MR. ELLIS:

16 Q. Trooper, hello.

17 Trooper, when -- when did you prepared this  
18 report?

19 A. 2/27/13.

20 Q. And you've had to rely on your report  
21 substantially in preparing for this testimony, right?

22 A. Say that again, please, sir?

23 Q. In preparation for today's hearing you had to  
24 review your report, right?

25 A. Yes, sir.

1 Q. That's normal for you?

2 A. Yes, sir. It is.

3 Q. And you made your report. Was that 5 days  
4 after the incident?

5 A. Yes, sir.

6 Q. Do you recall how many days you worked in  
7 between the date of offense and the date you made your  
8 report?

9 A. No, sir. I don't.

10 Q. But it's safe to say you probably did work a  
11 few days in between?

12 A. Yes, sir.

13 Q. And every time you work a shift, you have  
14 contact with dozens -- how many people do you contact?

15 A. As far as contact or as far as traffic stops?

16 Q. Well, both.

17 A. Yeah, we have dozens. That's safe to say.

18 Q. And when you're making traffic stops, a lot of  
19 those are what we call pretextual stops, right?

20 A. Yes, sir.

21 Q. Meaning that you're stopping people for minor  
22 violations so that you can have an excuse to have  
23 contact with them, right?

24 A. I guess you could say that. Yes, sir.

25 Q. Well, at that point, you determine whether or

1 not you think they've been drinking or committing some  
2 other crime, right?

3 A. Yes, sir.

4 Q. But for you to meet them, you've got to stop  
5 them for something, right?

6 A. Yes, sir.

7 Q. And so you stop them for things that normally  
8 you probably would not issue a citation for, right?

9 A. I'm not sure exactly where you're going.

10 Q. Well, yes or no. Do you? Do you stop people  
11 for not having a license plate light?

12 A. Yes, sir.

13 Q. Do you normally issue a citation for that?

14 A. No, sir. I do not.

15 Q. Do you stop people for not having a front  
16 license plate mounted?

17 A. Yes, sir. I do.

18 Q. Do you normally issue a citation?

19 A. Not usually.

20 Q. Do you recall in this case whether or not  
21 Mr. Pierce had a license plate on the front of his  
22 vehicle?

23 A. I don't recall because it wasn't Texas  
24 registration.

25 Q. Are you familiar with Arkansas vehicles?

1           A.    No, sir.  I'm not.

2           Q.    Do you stop Arkansas vehicles very often?

3           A.    Yes, sir.

4           Q.    And you can't remember whether or not they keep  
5 front license plates?

6           A.    I'm not sure of the laws of Arkansas -- the  
7 state laws of Arkansas, sir.

8           Q.    But if you saw a vehicle without a license  
9 plate, that would be a reason to stop it, wouldn't it?

10          A.    From Texas.  Yes, sir.

11          Q.    Sure.  Well, you wouldn't know, though, right?  
12 If you saw a vehicle drive by and it didn't have a front  
13 license plate and you pulled out and followed it, you  
14 wouldn't know until you got pretty close what kind of  
15 license plate it had, right?

16          A.    It just depends on the situation.  If they  
17 drove right by me and I could see that it was a Texas  
18 plate, then, yes, I would know that.

19                    If there was -- the weather conditions, the  
20 road conditions, you know, other traffic in the way,  
21 maybe I would have to follow behind it to be able to  
22 see.

23                    So it just depends.  I can't say that for  
24 sure, but --

25          Q.    Okay.

1           A.    -- it just depends on the situation.

2           Q.    So when you wrote this report, were you relying  
3 mainly on memory or did you view the video prior to  
4 writing this report?

5           A.    I reviewed the video.

6           Q.    Okay. And how does that help you?

7           A.    Helps me to remember the things that happened  
8 and the situation.

9           Q.    It's a lot to remember?

10          A.    Yes, sir. It is.

11          Q.    In this case, where were you parked?

12          A.    On the scale house on the eastbound side of the  
13 interstate.

14          Q.    Do you know about what mile marker that is?

15          A.    Approximately 544.

16          Q.    Okay. And do you recall which mile marker you  
17 stopped the defendant at?

18          A.    It was just west of 110. So that would be  
19 the -- no, I take that back. It wasn't -- correction, I  
20 wasn't parked at 544. I was parked at 546. That's  
21 where the scale house is.

22          Q.    And you stopped the defendant at which mile  
23 marker?

24          A.    547 A. Something like that.

25          Q.    Did you make note of that in your report?

1           A.    I'll have to check to see.

2           Q.    Okay. Go ahead and do that.

3           A.    Okay. It says here on line 7 -- I note, "The  
4 vehicle stopped on the improved shoulder of I 20, mile  
5 marker 548.

6           Q.    What does driving on the improved shoulder mean  
7 to you?

8           A.    It means that they -- the tire of the vehicle  
9 touched the white line.

10          Q.    Who taught you that?

11          A.    I learned that at the DPS academy for training.

12          Q.    So it's been your training that if a tire  
13 touches the white, that is driving on the improved  
14 shoulder?

15          A.    Well, it's riding on the line. Yes, sir.

16          Q.    Is riding on the line the same thing as driving  
17 on the improved shoulder?

18          A.    Yes, sir. It is.

19          Q.    So is it your -- are you telling the Court  
20 today that you believe the fog line is part of the  
21 improved shoulder?

22          A.    Yes, sir.

23          Q.    And were you trained that way by an attorney or  
24 by a senior officer or trooper?

25          A.    Whoever taught our traffic class. I don't

1 recall who it was.

2 Q. And so you're saying it's regular practice with  
3 DPS to pull people over for driving on the white line?

4 A. I'm not going to say it's regular practice.  
5 But I had noticed it two different times. One time he  
6 did cross completely over the white line and the second  
7 time he was riding on top of the white line.

8 Q. Okay. So there were two times. What was the  
9 first time?

10 A. He was driving over the white line.

11 Q. And that's not on video?

12 A. Correct. Yes, sir.

13 Q. Because that would have happened before the  
14 vehicle crossed?

15 A. Correct.

16 Q. And so the video couldn't record that?

17 A. Correct.

18 Q. But you were able to see that?

19 A. Yes, sir. I was.

20 Q. Do you recall what you told Mr. Pierce and  
21 Ms. Adams, for that matter, when you approached the  
22 vehicle and told them why you pulled them over?

23 A. Told them because they hit the white line and I  
24 stopped them to make sure they hadn't been drinking and  
25 everything was okay.

1           Q.    But you didn't tell them you pulled them over  
2 for crossing the white line; you told them you pulled  
3 them over for hitting the white line, right?

4           A.    I don't recall exactly what I said.

5           Q.    Well, we can queue that up.  We'll -- we'll  
6 come -- we'll queue that up here in a minute.

7                        Tell me, Trooper, did you have any reason  
8 to mislead Mr. Pierce when you told him why you pulled  
9 him over?

10          A.    No, sir.

11          Q.    Sometimes officers have to be misleading to  
12 suspects, right?

13          A.    I'm not sure exactly what you mean, sir.

14          Q.    Well, the point is, sometimes officers are  
15 allowed to mislead a suspect while they're conducting an  
16 investigation, aren't they?

17          A.    I don't know.

18          Q.    Do you not do that, then?

19          A.    No, sir.

20          Q.    Okay.  So you were honest with Mr. Pierce at  
21 all times?

22          A.    Yes, sir.

23          Q.    All right.  And you told him the reason you  
24 pulled him over, right?

25          A.    Yes, sir.



1           Q.    If you'll look at your police report for me,  
2 does your report indicate what you did immediately after  
3 you observed Mr. Pierce pass on the improved shoulder?  
4 What's the next thing you did?

5           A.    I activated my emergency lights, camera,  
6 microphone and initiated a traffic stop.

7           Q.    And, Trooper, so we're clear here, we're not  
8 going to see him cross in front of you on this side of  
9 the white line, are we?

10          A.    Correct.

11          Q.    What minute mark are we at, Trooper?

12          A.    Sir?

13          Q.    What minute mark are we at? Is that 1?

14          A.    1 minute, 10 seconds.

15          Q.    You testified earlier that when you saw him  
16 cross the white line you were concerned. What did  
17 that -- what could that possibly indicate to you?

18          A.    That somebody's driving while intoxicated,  
19 using their cell phone. It could be several different  
20 things.

21          Q.    And that gives you concern, right?

22          A.    Yes, sir.

23          Q.    What do you think as a Trooper when you see  
24 that happen? What do you want to do next?

25          A.    Observe the vehicle and see if it commits any

1 other traffic violations, observe the driving. It could  
2 be somebody's on their cell phone, it could be that  
3 they're intoxicated.

4 Q. We're about 2 minutes, 15 seconds or so; is  
5 that right?

6 A. 2:12.

7 Q. Okay. So at this point, you've pulled out,  
8 right?

9 A. Yes, sir.

10 Q. But you haven't activated your overhead lights  
11 yet, have you?

12 A. No, sir.

13 Q. We can tell that because we would see flashes  
14 on the screen, wouldn't we?

15 A. That's correct.

16 Q. Okay. You're driving pretty fast here?

17 A. Yes, sir.

18 Q. You clearly are going after Mr. Pierce's car?

19 A. Yes, sir.

20 Q. You're speeding up to get to that vehicle?

21 A. Correct.

22 Q. All right. Well, let me know when we see it in  
23 the screen.

24 Is that the vehicle there on the right?

25 A. I believe so.

1           Q.   And you still have not yet activated your  
2 lights?

3           A.   No, sir.

4           Q.   Okay.  At this point -- now, you testified  
5 earlier that at this point he doesn't cross the fog line  
6 or the white line, but he touches it a few times?

7           A.   He drives on top of it.  Yes, sir.

8           Q.   Drives on top of it.

9                    Okay.  Tell me when you see him driving on  
10 top of it.

11          A.   Looks like -- there it is.  There.

12          Q.   So there you think he touched it, right?

13          A.   Yes, sir.

14          Q.   You don't have the best perspective from here,  
15 though, do you?

16          A.   No, I don't.

17          Q.   So from here, we can't tell for certain if  
18 there's a few inches between his tire and the white line  
19 or he's on top of it?

20          A.   Correct.

21          Q.   But to you, it looked like he touched it?

22          A.   Yes, sir.

23          Q.   But not that he crossed it.

24                    Have you turned on your overhead lights  
25 yet?

1           A.    No, sir.

2           Q.    But the reason we have the camera is because it  
3 goes back 180 seconds or something like that?

4           A.    Whatever it's programmed for. I'm not sure  
5 exactly what the time is.

6           Q.    Okay. Tell me when you turn on your overhead  
7 lights.

8           A.    Now.

9           Q.    Okay. So then shortly after what you observed  
10 to be him touching the white line, which you testified  
11 earlier was driving on the improved shoulder, you  
12 activated your emergency lights, correct?

13          A.    Correct.

14          Q.    If we go back to your report again, what did  
15 you tell me earlier was the first thing you did after  
16 you saw him drive on the improved shoulder?

17          A.    Activated my lights.

18          Q.    So let's let that play again. And if we could  
19 pause it.

20                    You haven't actually put the lights on yet,  
21 right?

22          A.    I just did.

23          Q.    I think we're hearing the audio because it  
24 kicks on earlier.

25          A.    Correct. Correct. And that's my mistake.

1 Correct.

2 Q. Also you said (inaudible.) Who's that?

3 A. That wasn't me that was talking. Just somebody  
4 else that just came over the radio.

5 Q. Okay. And now we see the lights are on,  
6 correct?

7 A. Correct.

8 Q. So to recap, you were sitting parked, he drove  
9 by you, you pulled out, you sped up for him, you  
10 followed him for a while -- for probably at least a  
11 quarter mile or so?

12 A. Yes, sir. And the reason for that and why I'm  
13 in the left lane is before I stop anybody I'll --

14 MR. ELLIS: Object to nonresponsive,  
15 Your Honor.

16 THE COURT: Sustained.

17 Q. (BY MR. ELLIS) You follow him for a while,  
18 correct?

19 A. Correct.

20 Q. You see him touch the white line, arguably a  
21 few times, correct?

22 A. Arguably to you, but I did.

23 Q. Well, you believe -- you believe he touched the  
24 white line a few times?

25 A. Yes, sir.

1           Q.   That's what I'm asking.  And then you activate  
2 your lights and pull him over, correct?

3           A.   Correct.

4           Q.   Now, at this point you're about to initiate a  
5 traffic stop, right?

6           A.   Correct.

7           Q.   And it's your job to effect that traffic stop  
8 as quickly as possible, right?

9           A.   In a timely manner for the situation.  I  
10 wouldn't say as quickly as possible.  I mean, if I just  
11 walked up to somebody and just went as quick as I could,  
12 I would miss a lot of things and --

13          Q.   How long does it take you to police somebody  
14 driving on the improved shoulder, if that's the only  
15 thing you're handling?

16          A.   Several minutes.  A few minutes.

17          Q.   And you're not going to keep them any longer  
18 unless you come to believe there's reasonable suspicion  
19 of criminal activity, right?

20          A.   Correct.

21          Q.   I want you to listen closely to what you tell  
22 him because I'm going to ask you about it.

23          A.   Okay.

24          Q.   So you told Mr. Pierce you pulled him over  
25 because he touched the white line a few times, correct?

1           A.    Correct.

2           Q.    And specifically right when you got behind him  
3 there?

4           A.    Yes, sir.

5           Q.    So not earlier, but right when you were behind  
6 him driving behind him?

7           A.    Yes, sir.

8           Q.    In fact, you suspected it was because he might  
9 have been distracted looking back your way.

10          A.    Well, I asked him. I said, "I didn't know if  
11 you were just looking back at me or if you had been  
12 drinking or on the phone." Things like that.

13          Q.    Okay. This stretch of road, by the way, do you  
14 patrol it frequently?

15          A.    Yes, sir.

16          Q.    In the spot where you were parked, do you  
17 patrol that frequently?

18          A.    Parked now or when I was on the side of the  
19 road?

20          Q.    Earlier.

21          A.    Yes, sir. I stayed at the scale house a lot.  
22 Yes, sir.

23          Q.    You're kind of concealed and you're safe  
24 because you're off the road?

25          A.    Yes, sir.

1           Q.    So, Trooper, are you telling the Court the  
2 reason you pulled him over then was because he touched  
3 the white line right there?

4           A.    And for driving over the top -- driving over  
5 the white line before he got to my vehicle. Yes, sir.

6           Q.    Now, you prepared this report afterwards,  
7 relying on the video, right?

8           A.    Correct.

9           Q.    And in your report, do you note anywhere there  
10 that he drove over the white line?

11          A.    No, sir. I just put on there that he drove on  
12 the improved shoulder. That was the reason for the  
13 stop.

14          Q.    And in your opinion, that would also include  
15 driving on top of the white line?

16          A.    Yes, sir.

17          Q.    Trooper, 23 minutes and 45 seconds. Where are  
18 we at? Did we pass it already?

19          A.    Yes, sir. We're at 30:41.

20          Q.    We're going pretty fast, then. Are we going  
21 backwards now?

22          A.    Yes, sir.

23          Q.    There it is.

24                    Okay. Trooper, do you recognize this video  
25 at this point?



1           A.    Yes, sir.

2           Q.    Where are we at in the whole process here? I  
3 skipped ahead.

4           A.    Yeah, I'm kind of lost a little bit. I'm not  
5 sure exactly.

6           Q.    I'm going to fast forward. I think the  
7 computer's responding a little slow and I clicked a few  
8 too many times.

9                    Okay. So, Trooper, at this point in the  
10 video, have you already inventoried the vehicle?

11          A.    I'm not sure.

12          Q.    I realize we skipped ahead. But at some point,  
13 you inventoried the vehicle and you arrest Mr. Pierce.

14          A.    I believe Trooper Baker inventoried the  
15 vehicle.

16          Q.    I see in this video, while we're here, the  
17 camera's looking back into the car, right?

18          A.    Correct.

19          Q.    How are you able to accomplish that?

20          A.    You have to go through the monitor on the  
21 screen and make the screen split.

22          Q.    So you have the choice to do that?

23          A.    Yes, sir.

24          Q.    Earlier you brought Mr. Pierce into the vehicle  
25 to question him, right?

1           A.    Correct.

2           Q.    And I think you made it clear from your  
3 testimony earlier that not long after you stopped the  
4 vehicle, you suspected there might be other criminal  
5 activity, right?

6           A.    Correct.

7           Q.    And pretty early on you were wondering whether  
8 or not it was some sort of drug interdiction case,  
9 right?

10          A.    Correct.

11          Q.    And when you brought Mr. Pierce to your  
12 vehicle, part of that was to have the chance to  
13 interview him some more and decide whether or not you  
14 thought he was running drugs, right?

15          A.    Well, initially it was for -- to talk to him  
16 about his driver's license because he told me that it  
17 was suspended and ask him some questions about it.

18                   I couldn't answer the questions about it.  
19 I was going to have to look up some things in my  
20 computer and it's cold and windy outside. So that's the  
21 reason why.

22          Q.    But the -- the interview served multiple  
23 purposes, though, right?

24          A.    Yes, sir.

25          Q.    As a trooper, you're often times doing that?

1           A.    Yes, sir.

2           Q.    You're gathering information, but you're also  
3 investigating at the same time?

4           A.    Yes.

5           Q.    And when you were asking him questions, I  
6 believe you testified earlier that his demeanor changed,  
7 correct?

8           A.    Yes, sir.  At one point it did.  I'm not sure  
9 exactly when you're talking about.  But yes, sir.

10          Q.    When you had him in the car you asked him if he  
11 had anything illegal in the vehicle?

12          A.    Yes, sir.

13          Q.    And then you asked him specifically about other  
14 illegal -- he said no to that, right?

15          A.    Correct.

16          Q.    And then you asked him specifically about cash,  
17 about guns and different drugs, right?

18          A.    Correct.

19          Q.    Those questions were repetitive, weren't they?

20          A.    Yes, sir.

21          Q.    I mean, if someone said they don't have  
22 anything illegal in the car and they're telling the  
23 truth, then they don't have any drugs or guns, right?

24          A.    Correct.

25          Q.    So it could be a bit frustrating being asked

1 the same question over and over again, right?

2 A. Well, it's not the exact same questions. I was  
3 just asking specific things.

4 Q. And the questions you asked him -- you asked  
5 him a series of questions.

6 A. Yes.

7 Q. And according to your testimony, he didn't  
8 change his demeanor until the final question.

9 A. Correct.

10 Q. You said you asked that question last, by the  
11 way, about meth.

12 Have you received specific training that  
13 asking that last question will indicate drug behavior or  
14 is that something you've come to do on your own?

15 A. I've been to some training where that's  
16 happened in the past and, you know -- so, yes. The  
17 training, yes.

18 Q. Well, I want to find that spot in the video  
19 where --

20 I'm going to fast forward until we see that  
21 y'all are opening the trunk up. That's what I want to  
22 get to. While that's fast forwarding, I'm going to keep  
23 an eye on it and ask you a few questions.

24 A. Yes, sir.

25 Q. Try to speed things along.

1                   Trooper, what does reasonable suspicion  
2 mean to you?

3           A.    What a reasonable person or reasonable police  
4 officer would -- would suspect is going on.

5           Q.    And what do you have to find to determine  
6 there's reasonable suspicion?

7           A.    They -- I can't say one thing in particular.  
8 It just depends on the situation.

9           Q.    Okay. In this case, you stop Mr. Pierce for a  
10 traffic violation, right?

11          A.    Correct.

12          Q.    And you have to write him a ticket and let him  
13 go unless you determine there's something else to  
14 investigate, right? You know you can't keep him there  
15 all day on the side of the road for a ticket, right?

16          A.    Correct. Yes, sir.

17          Q.    Pretty early on in your detention, you  
18 determined that he -- you thought you needed to  
19 investigate further, right?

20          A.    Correct.

21          Q.    And then you brought him back to the vehicle?

22          A.    Correct.

23          Q.    Then you asked him a number of questions and  
24 then you determined that you wanted to get consent to  
25 search the vehicle, right?

1           A.    Correct.

2           Q.    And they didn't give you consent?

3           A.    No, sir.

4           Q.    You went back and forth with them a few times  
5 trying to get consent, but you didn't get consent?

6           A.    No, I wasn't trying to get consent.

7           Q.    So you tried to get it once and then he  
8 refused?

9           A.    He asked me some questions about it as far as  
10 the ticket goes and that's what we were discussing on  
11 there.

12          Q.    And at that point, I believe you tell him--tell  
13 me if I'm right--"That's within your rights to refuse,  
14 but I'm also within my rights to call a canine unit"?

15          A.    Correct.  Something like that.  Yes, sir.

16          Q.    And earlier, I put that down at 15 minutes and  
17 3 seconds.  Does that sound about right?

18          A.    I have no idea.  But okay.

19          Q.    It was about that long in to the stop, wasn't  
20 it?

21          A.    Okay.

22          Q.    After that point, though, you don't call a  
23 canine unit, do you?  Not right away?

24          A.    Not immediately.  No, sir.

25          Q.    You get out of the vehicle and you go to the

1 passenger's side of the vehicle where you talked with  
2 the young woman in the vehicle, right?

3 A. Correct.

4 Q. You talk with her for a while and you try to  
5 obtain consent from her to search the vehicle?

6 A. No, sir.

7 Q. Well, didn't you ask her who owned the vehicle?

8 A. I was asking her who owned the vehicle.

9 Yes, sir.

10 Q. Okay. You spent some time talking with her  
11 before you got her out of the vehicle, right?

12 A. Correct.

13 Q. And finally, at 24 minutes and 30 seconds, you  
14 request a canine to come, right?

15 A. Correct.

16 Q. So you agree that you let 9 minutes elapse  
17 after determining you wanted a canine and consent to  
18 search had been refused? You waited 9 minutes before  
19 you called for a canine, right?

20 A. If that's what the time is. Yes, sir.

21 Q. If you're not satisfied with that, we can go  
22 back. But --

23 A. No, I'm satisfied with --

24 Q. And then from the time you requested a canine  
25 at 24 minutes and 30 seconds, the canine didn't arrive

1 and actually start performing a search until 57 minutes  
2 and 39 seconds.

3 All right. I know it gets loud, but what I  
4 want you to focus on at this place, Trooper, is you're  
5 having a conversation with Trooper Baker. I believe  
6 that's you two in the vehicle, right?

7 A. Yes, sir.

8 Q. Okay. And I think you've searched the vehicle  
9 at this point and you're putting stuff back in the  
10 trunk; is that right?

11 A. I guess. I haven't watched the video long  
12 enough to know exactly what we were doing at this point.

13 Q. Trooper Baker's going to ask you later on why  
14 you stopped him and I want you to listen to that so you  
15 can testify. Can you hear okay?

16 A. No, sir.

17 Q. It's tough to hear. All right. Well, I know  
18 it's after Officer Hill leaves the scene so we'll see if  
19 the audio improves.

20 So there, the canine officer is asking you  
21 about your earlier interrogation, your interview, with  
22 Mr. Pierce, right?

23 A. Correct.

24 Q. And he was asking you how his demeanor reacted,  
25 right?



1           A.    Correct.

2           Q.    It appeared to me that you hadn't given that  
3 much thought at that point what they were considering;  
4 is that right?

5           A.    I'm not sure exactly what you mean.

6           Q.    Well, it seems to me in the video it wasn't up  
7 until that point that you paid any particular notice to  
8 Mr. Pierce dropping his head or saying anything of the  
9 kind.

10          A.    No, I had.

11          Q.    You had?

12          A.    Yes, sir. I mean, I hadn't talked about it to  
13 a bunch of people because there's a million things going  
14 on at that time.

15          Q.    And when he was in the car, you had the option  
16 to turn on the camera so we could see Mr. Pierce when  
17 you were having that conversation, right?

18          A.    Yes, sir. And I just didn't think about it.

19          Q.    Okay. I was going to try to speed up to the  
20 spot so you could find it.

21          A.    Okay.

22          Q.    Trooper, it's difficult to watch this video  
23 without time and date stamps. But the one you recorded,  
24 did it have a time and date stamp on it?

25          A.    I can't recall.

1           Q. Trooper, I do think this is the spot I want you  
2 to pay attention to --

3           A. Okay.

4           Q. -- concerning the conversation you were having  
5 with Detective Baker.

6           A. Okay.

7           Q. Did you hear that?

8           A. No, sir. I didn't.

9           Q. I only heard it because I've watched this thing  
10 too many times. And the audio --

11                   MR. ELLIS: I'm not familiar with the  
12 equipment, Judge.

13           Q. (BY MR. ELLIS) But I want you to listen to it  
14 carefully. I believe, when you listen to it,  
15 Trooper Baker asked you, "What did you pull him over  
16 for? What did you get him for?" And you're going to  
17 say something like, "Driving on the white line" or  
18 "Driving on the shoulder."

19                   And then you're even going to specify that  
20 what you meant was the time when you were behind him and  
21 you thought he was looking back at you.

22                   So let's get back there. I'll try to  
23 rewind a few seconds and get back to that.

24                   Did you hear?

25           A. I heard some of it.

1           Q.    Did you hear him (sic) say, "You looking back  
2 at me"? Did you hear you saying that statement?

3           A.    Yes, sir.

4           Q.    Clearly you were referring to Mr. Pierce  
5 potentially looking back at you --

6           A.    And that's the reason he was hitting the  
7 shoulder. Yes, sir.

8           Q.    So twice now in the video you've indicated the  
9 reason you pulled Mr. Pierce over was for driving on the  
10 white line, which you consider driving on the shoulder,  
11 while you were immediately behind him, correct?

12          A.    Yes, sir.

13          Q.    And you also indicate in the report that the  
14 first thing you do is you turn on your emergency lights  
15 and camera system after he commits that violation,  
16 right?

17          A.    I don't say immediately after he commits a  
18 violation.

19          Q.    Okay. But it's the next thing you do, right?

20                Does your report indicate that you saw him  
21 commit the violation, had to enter traffic, follow him  
22 to catch up to him and follow him for a quarter mile?

23          A.    No, sir. It doesn't say that.

24          Q.    It just indicates that you saw him commit the  
25 violation and you activated your overhead lights, right?

1           A.    Yes, sir.

2           Q.    And when we watch the video we saw him drive on  
3 the white line, according to your testimony, and then  
4 you activated your overhead lights, right?

5           A.    Yes, sir.

6                   THE COURT:   Mr. Ellis, how much more do you  
7 have of this witness?

8                   MR. ELLIS:   Your Honor, I would say 10,  
9 15 minutes.

10                  THE COURT:   We're going to have to recess  
11 the hearing. We have a jury trial starting in about 25,  
12 20 minutes.

13                  MR. ELLIS:   Okay.

14                  THE COURT:   All right. We're going to  
15 recess this hearing. I apologize we didn't get this  
16 finished this morning. We're going to take this back up  
17 on Thursday at 10 o'clock.

18                   We'll let you know, Mr. Ellis, if for some  
19 reason we're not finished with the trial we're about to  
20 start now. But I would anticipate that we would at  
21 least be with the jury having the case at that time, if  
22 not completely finished.

23                   Also, Mr. Ellis, if you're more familiar  
24 with your own equipment, please feel free to bring your  
25 own equipment so that you're not struggling with the

1 State's equipment as far as finding places on the video.

2 MR. ELLIS: Sure.

3 THE COURT: Because I feel like we've spent  
4 a lot of time looking for places on the video when  
5 maybe --

6 MR. ELLIS: It's not so much --

7 THE COURT: Excuse me. Just a minute.  
8 I'll let you say something in just a minute.

9 But if you would be more familiar with your  
10 own equipment, please feel free to do that, to bring it.  
11 Because we're wasting a lot of time looking for places  
12 on the video.

13 Okay. Did you have something else you  
14 wanted to add to that?

15 MR. ELLIS: Well, I just wanted the Court  
16 to know that I certainly have put down the time dates.  
17 The difficulty is the software.

18 THE COURT: Okay. Well, if you could --  
19 anything you can do to expedite that, that would be  
20 great.

21 MR. ELLIS: I will try, Your Honor.

22 THE COURT: We're in recess on this matter  
23 until 10 o'clock on Thursday.

24 THE WITNESS: Thank you, Judge.

25 THE COURT: Again, you're not to discuss

1 your testimony with the lawyers, the State, the defense,  
2 their investigators, or anybody because you are still on  
3 the witness stand.

4 THE WITNESS: Yes, ma'am. Thank you.

5 THE COURT: See you Thursday.

6 (Proceedings adjourned.)

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## 1 REPORTER'S CERTIFICATE

2 THE STATE OF TEXAS )  
3 COUNTY OF SMITH )  
4

5 I, Cassie Condrey, Official Court Reporter in and  
6 for the 114th District Court of Smith County, State of  
7 Texas, do hereby certify that the above and foregoing  
8 contains a true and correct transcription of all  
9 portions of evidence and other proceedings requested in  
10 writing by counsel for the parties to be included in  
11 this volume of the Reporter's Record, in the  
12 above-styled and -numbered cause, all of which occurred  
13 in open court or in chambers and were reported by me.

14 I further certify that this Reporter's Record of  
15 the proceedings truly and correctly reflects the  
16 exhibits, if any, admitted by the respective parties.

17 WITNESS MY OFFICIAL HAND this the 24th day of June,  
18 2014.

19  
20 /s/Cassie Condrey  
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